



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ECOSYSTEMS,
TRIBAL AND PUBLIC
AFFAIRS

July 23, 2012

Ms. Heather Kendall-Miller
Attorney
Native American Rights Fund
801 B Street, Suite 401
Anchorage, Alaska 99501

Dear Ms. Kendall-Miller:

This letter is in response to your May 24, 2012, letter to our U.S. Environmental Protection Agency, Region 10, Regional Administrator, Dennis McLerran regarding the Chuitna Coal Project and the Native Village of Tyonek's (NVT) request for information on site specific criteria and baseline water quality data.

We are more than willing to discuss pending EPA decisions or other important policy issues (such as the Memorandum of Understanding that you mentioned) with you and the NVT at the leadership level. In fact, we have been contacted by Rob Rosenfeld requesting a leadership level discussion sometime in early October, and I understand that Region 10 staff is working with him to develop a list of agenda topics and meeting logistics.

Regarding your request for information on the site specific criteria and baseline water quality data for the Chuitna site, such information should be requested directly from the agencies leading those efforts. As explained in the fact sheet (enclosed with our letter of April 27, 2012), the development of site specific criteria for the Chuitna watershed is a State action being conducted by the Alaska Department of Environmental Conservation (ADEC). Any questions on the metals being considered, methods used, timetables and schedules, and NVT involvement in that process should be directed to ADEC.

The U.S. Army Corps of Engineers (Corps) is the lead agency for development of the Chuitna Coal Project's Supplemental Environmental Impact Statement (SEIS), and as such, the Corps is responsible for directing the collection of baseline water quality data and maintaining the record of water quality information necessary to support the development of the SEIS. For this reason, requests for information on surface or groundwater data should be made directly to the Corps.

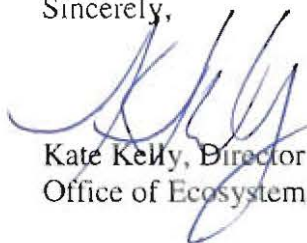
The baseline water quality information requested in your letter should be available to the NVT as a cooperating agency in the SEIS development process. As stipulated in the 2011 interagency Memorandum of Understanding the cooperating agencies have the opportunity to, "Review all substantive phases of the SEIS preparation including, but not limited to: 1) Baseline data," [Section II.4.(a)(1)] and "shall have access to and the opportunity to review all materials, procedures, and underlying data used by the Contractor in developing any and all reports, including, but not limited to field reports, subcontractor reports, and interviews with concerned private and public parties," [Section

III.5]. The information you request in your letter appears to fit within this category of materials and we encourage you to direct your request for that information to the Corps as lead agency.

Our technical staff is available to discuss aspects of the Chuitna Coal Project in which the EPA is involved. If you would like to set up a discussion please contact Katherine Brown at (206) 553-7263 or by electronic mail at brown.katherine@epa.gov. Also, I have asked Ms. Brown to coordinate with you and Mr. Rosenfeld on a mutually agreeable date, time, and agenda for our tentatively scheduled October leadership meeting.

If you have any questions or concerns regarding this letter, please feel free to contact me at (206) 553-1271 or by electronic mail at kelly.kate@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Kelly', is written over the typed name and title.

Kate Kelly, Director
Office of Ecosystems, Tribal, and Public Affairs

cc: Marcia Heer, Corps
Phil Brna, USFWS
Tom Crafford, ADNR
President Frank Standifer, NVT